

1 **HOUSE JOINT RESOLUTION NO. 21**2
3 (By Delegates Overington, Walters, Cowles,
4 Azinger and Duke)5
6 [Introduced January 18, 2011; referred to the
7 Committee on Constitutional Revision then Finance.]8 **FISCAL**
9 **NOTE**10 Proposing an amendment to the Constitution of the State of West
11 Virginia, amending section one-b, article X thereof, relating
12 to homestead exemption increase; numbering and designating
13 such proposed amendment; and providing a summarized statement
14 of the purpose of such proposed amendment.15 *Resolved by the Legislature of West Virginia, two thirds of*
16 *the members elected to each house agreeing thereto:*17 That the question of ratification or rejection of an amendment
18 to the Constitution of the State of West Virginia be submitted to
19 the voters of the state at the next general election to be held in
20 the year 2012, which proposed amendment is that section one-b,
21 article X thereof be amended to read as follows:22 **ARTICLE X. TAXATION AND FINANCE.**23 **§1b. Property tax limitation and homestead exemption amendment of**
24 **1982.**

25 Ad valorem property taxation shall be in accordance with this

1 section and other applicable provisions of this article not
2 inconsistent with this section.

3 *Subsection A -- Value; Rate of Assessment; Exceptions*

4 Notwithstanding any other provisions of this Constitution and
5 except as otherwise provided in this section, all property subject
6 to ad valorem taxation shall be assessed at sixty percent of its
7 value, as directed to be ascertained in this section, except that
8 the Legislature may from time to time, by general law agreed to by
9 two thirds of the members elected to each house, establish a higher
10 percentage for the purposes of this paragraph, which percentage
11 shall be uniform as to all classes of property defined in section
12 one of this article, but not more than one hundred percent of ~~such~~
13 the value.

14 Notwithstanding the foregoing, for July 1, 1982, and July 1 of
15 each year thereafter until the values may be fixed as a result of
16 the first statewide reappraisal hereinafter required, assessments
17 shall be made under the provisions of current statutory law, which
18 is hereby validated for ~~such~~ that purpose until and unless amended
19 by the Legislature. Assessment and taxation in accord with this
20 section ~~shall be deemed to be~~ is equal and uniform for all
21 purposes.

22 *Subsection B -- Determination of Value*

23 The Legislature shall provide by general law for periodic
24 statewide reappraisal of all property, which reappraisal shall be

1 related for all property to a specified base year which, as to each
2 ~~such~~ reappraisal, shall be uniform for each appraisal for all
3 classes of property and all counties. In such law, the Legislature
4 shall provide for consideration of: (1) Trends in market values
5 over a fixed period of years prior to the base year; (2) the
6 location of the property; and (3) ~~such~~ other factors and methods as
7 it may determine: *Provided*, That with respect to reappraisal of
8 all property upon the base year of 1980, ~~such~~ reappraisals are
9 deemed to be valid and in compliance with this section: *Provided*,
10 *however*, That with respect to farm property, as defined from time
11 to time by the Legislature by general law, the determination of
12 value shall be according to its fair and reasonable value for
13 farming purposes, as may be defined by general law.

14 The results of each statewide appraisal shall upon completion
15 be certified and published and errors therein may be corrected, all
16 as provided by general law. The first ~~such~~ statewide appraisal
17 shall be completed, certified and published on or before March 31,
18 1985, for use when directed by the Legislature.

19 The Legislature shall further prescribe by general law the
20 manner in which each statewide reappraisal shall be employed to
21 establish the value of the various separately assessed parcels or
22 interests in parcels of real property and various items of personal
23 property subject to ad valorem property taxation, the methods by
24 which increases and reductions in value subsequent to the base year

1 of each statewide reappraisal shall be ascertained, and require the
2 enforcement thereof.

3 *Subsection C -- General Homestead Exemption*

4 Notwithstanding any other provisions of this Constitution to
5 the contrary, no less than the first \$20,000 of assessed valuation
6 of any real property, or of personal property in the form of a
7 mobile home, used exclusively for residential purposes and occupied
8 by the owner or one of the owners thereof as his or her residence
9 who is a citizen of this state and who is sixty-five years of age
10 or older or is permanently and totally disabled as that term may be
11 defined by the Legislature, shall be exempt from ad valorem
12 property taxation, subject to ~~such~~ the requirements, limitations
13 and conditions as shall be prescribed by general law.

14 Notwithstanding any other provision of this Constitution to
15 the contrary, the Legislature ~~shall have~~ has the authority to
16 provide by general law for an exemption from ad valorem property
17 taxation in an amount not ~~to exceed~~ less than the first \$20,000 of
18 value of any real property, or of personal property in the form of
19 a mobile home, used exclusively for residential purposes and
20 occupied by the owner or one of the owners thereof as his or her
21 residence who is a citizen of this state, and who is under sixty-
22 five years of age and not totally and permanently disabled:
23 *Provided*, That upon enactment of ~~such~~ the general law, this
24 exemption shall only apply to ~~such~~ the property in any county in

1 which the property was appraised at its value as of January 1,
 2 1980, or thereafter, as determined by the Legislature, and this
 3 exemption shall be phased in over ~~such~~ the period of time not to
 4 exceed five years from the date ~~such~~ the property was so appraised,
 5 or such longer time as the Legislature may determine by general
 6 law: *Provided, however,* That in no event shall any one person and
 7 his or her spouse, or one homestead be entitled to more than one
 8 exemption under these provisions: *Provided further,* That these
 9 provisions are subject to ~~such~~ the requirements, limitations and
 10 conditions as shall be prescribed by general law: *And provided*
 11 *further,* That the Legislature may provide tax relief by general law
 12 by calculating a percentage of the average cost or value by county
 13 of any real property, or of personal property in the form of a
 14 mobile home, used exclusively for residential purposes and occupied
 15 by the owner or one of the owners thereof as his or her residence
 16 who is a citizen of this state and who is sixty-five years of age
 17 or older or is permanently and totally disabled, with the homestead
 18 exemption never less than \$20,000.

19 The Legislature ~~shall have the authority to~~ may provide by
 20 general law for property tax relief to citizens of this state who
 21 are tenants of residential or farm property.

22 *Subsection D -- Additional Limitations on Value*

23 With respect to the first statewide reappraisal, pursuant to
 24 this section, the resulting increase in value in each and every

1 parcel of land or interest therein and various items of personal
2 property subject to ad valorem property taxation over and above the
3 previously assessed value shall be allocated over a period of ten
4 years in equal amounts annually.

5 The Legislature may by general law also provide for the
6 phasing in of any subsequent statewide reappraisal of property.

7 *Subsection E -- Levies for Free Schools*

8 In equalizing the support of free schools provided by state
9 and local taxes, the Legislature may require that the local school
10 districts levy all or any portion of the maximum levies allowed
11 under section one of this article which has been allocated to ~~such~~
12 the local school districts.

13 Within the limits of the maximum levies permitted for excess
14 levies for schools or better schools in sections one and ten of
15 this article, the Legislature may, in lieu of the exercise of such
16 powers by the local school districts as heretofore provided, submit
17 to the voters, by general law, a statewide excess levy, and if it
18 ~~be~~ is approved by the required number of voters, impose ~~such~~ the
19 levy, subject however to all the limitations and requirements for
20 the approval of ~~such~~ the levies as in the case of a district levy.
21 The law submitting the question to the voters shall provide, upon
22 approval of the levy by the voters, for the assumption of the
23 obligation of any local excess levies for schools then in force
24 theretofore authorized by the voters of a local taxing unit to the

1 extent of ~~such~~ the excess levies imposed by the state and so as to
2 avoid double taxation of those local districts. The Legislature
3 may also by general law reserve to the school districts ~~such~~ the
4 portions of the power to lay authorized excess levies as it may
5 deem appropriate to enable local school districts to provide
6 educational services which are not required to be furnished or
7 supported by the state. If a statewide excess levy for the support
8 of free schools is approved by the required majority, the revenue
9 from ~~such~~ a statewide excess levy shall be deposited in the state
10 Treasury and be allocated first for the local obligations assumed
11 and thereafter for ~~such~~ part of the state effort to support free
12 schools, by appropriation or as the law submitting the levy to the
13 voters shall require, as the case may be.

14 The defeat of any ~~such~~ proposed statewide excess levy for
15 school purposes ~~shall~~ may not in any way abrogate or impair any
16 local existing excess levy for ~~such~~ that purpose nor prevent the
17 adoption of any future local excess levy for ~~such~~ that purpose.

18 *Subsection F -- Implementation*

19 In the event of any inconsistency between any of the
20 provisions of this section and other provisions of this
21 Constitution, the provisions of this section shall prevail. The
22 Legislature shall have plenary power to provide by general law for
23 the equitable application of this article and, as to taxes to be
24 assessed prior to the first statewide reappraisal, to make such

1 laws retroactive to July 1, 1982, or thereafter.

2 *Resolved further,* That in accordance with the provisions of
3 article eleven, chapter three of the Code of West Virginia, 1931,
4 as amended, such proposed amendment is hereby numbered "Amendment
5 No. 1" and designated as the "Homestead Exemption Calculation
6 Amendment" and the purpose of the proposed amendment is summarized
7 as follows: "The purpose of this amendment is to provide an
8 alternative method of calculating the homestead exemption so the
9 exemption is never less than \$20,000."

NOTE: The purpose of this resolution is to provide an alternative method of calculating the homestead exemption based on the average cost or value of the residential property by county. The exemption shall never be less than \$20,000.

Strike-throughs indicate language that would be stricken from the present Constitution, and underscoring indicates new language that would be added.